APPEAL NO. 020957
FILED JUNE 5, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 26, 2002. The hearing officer determined that the compensable injury sustained by the appellant (claimant) on _____, did not extend to several specific conditions, including neurotoxicity, and that he did not have disability from his injury.

The claimant has appealed, arguing facts that he says prove the causal relationship of his injuries to a single inhalation exposure. The respondent (carrier) responds that the decision is supported by the record.

DECISION

Affirmed.

The extent of an injury is a factual question for the hearing officer to resolve. The hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given to the evidence. Section 410.165(a). It is for the hearing officer to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). The Appeals Panel has held that a fact finder is not bound by the testimony of a medical witness when the credibility of the testimony is manifestly dependent on the credibility of the information imparted to the witness by the claimant. Rowland v. Standard Fire Insurance Company, 489 S.W.2d 151 (Tex. Civ. App.-Houston [14th Dist.] 1972, writ ref'd n.r.e.). Exposure to toxic chemicals through inhalation, and the resultant effect on the body, are matters beyond common experience, and medical evidence should be submitted which establishes the connection as a matter of reasonable medical probability, as opposed to a possibility, speculation, or guess. *See* Schaefer v. Texas Employers' Insurance Association, 612 S.W.2d 199 (Tex. 1980); Texas Workers' Compensation Commission Appeal No. 92187, decided June 29, 1992; Texas Workers' Compensation Commission Appeal No. 93774, decided October 15, 1993. Opinion testimony does not establish any material fact as a matter of law and is not binding on the trier of fact. American Motorists Insurance Co. v. Volentine, 867 S.W.2d 170 (Tex. App.-Beaumont 1993, no writ). In this case, it appears to us that one aspect for which expert testimony rising to reasonable medical probability was required was the theory that one can develop a multiple sensitivity from a single inhalation incident. The hearing officer was evidently not persuaded by the treating doctor's assertion that the identity of the chemicals which the claimant may have inhaled on the date in question was "immaterial" because their harmful nature was proven by the claimant's reaction. The hearing officer was within her purview as finder of fact in determining that the doctor's testimony and reports were not credible in providing the causal link.

The decision of the hearing officer will be set aside only if the evidence supporting the hearing officer's determination is so weak or against the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Atlantic Mutual Insurance Company v. Middleman, 661 S.W.2d 182 (Tex. App.-San Antonio 1983, writ ref'd n.r.e.). We cannot agree that this is the case here on the appealed issues, and the decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

WILLIAM PARNELL
8144 WALNUT HILL LANE, SUITE 1600
DALLAS, TEXAS 75231.

Susan M. Kelley
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Michael B. McShane
Appeals Judge